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ELECTRONICALLY FILED
5-12-10

Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

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IN RE:
THOMAS O. McCOMAS

Case No. BK-N-09-51046-GWZ
(Chapter 13)

RESPONSE TO SUPPLEMENTS TO
MOTION FOR RELIEF FROM THE
AUTOMATIC STAY

HEARING Date: 5-18-10

HEARING Time: 10:00 a.m.

Time Required: 5 mins.

COMES NOW, the debtor, by and through his attorney, Sean P. Patterson, Esq. files the following response to the Supplements in filed in support of the Motion for Relief from Stay filed JP MORGAN CHASE BANK. This response is brought pursuant to the Points and Authorities included herein, and on further oral argument of counsel as may be presented at the time of hearing.

POINTS AND AUTHORITIES

I. FACTS

This case was filed on or about April 13, 2009. The plan was filed on the same day. The case was filed to allow the debtor's to reorganize his unsecured debt, pay his priority debt, cure the mortgage arrears, and "strip" the second mortgage off the property. The plan was confirmed on August 27, 2009.

Since the filing of this motion, the creditors has filed 2 supplements to its motion for relief from stay. In the first supplement, the creditor claims that the debtor owes four (4) payments, after claiming that the debtor was 12 payments behind on with this company, and the debtor showing that there was only really two (2) payments missed.

In the second supplement, the creditor claims there is an additional two (2) payments. In addition, the creditor is now claiming the following:

A. Corporate advance- \$2,385.34

b. Escrow shortage- \$2,951.97

c. Accrued late fees- \$1,063.30

II. LEGAL ARGUMENT

A secured claim holder has the burden of proving the reasonableness of its fee claim, whether under §506(b) or under §1322. In re Atwood, 293 B.R. 227, 233 (9th.Cir.BAP 2003).

The creditor has failed to provide any evidence of attorney time in its motion. The creditor has failed to provide evidence of the additional \$6,000 in charges and fees. Counsel seeks an accounting from this company of the following: 1) The payments

1 since the filing of this case; 2) The accrued late fees; 3)
2 Corporate advance- \$2,385.34; 4) Escrow shortage- \$2,951.97.

3 This property is Mr. McComas' residence. The debtor does not
4 have equity in the property. Nevertheless, the bankruptcy was
5 filed to protect the residence. The debtor would like to avoid the
6 cost of a foreclosure and damage to his credit.

7 The creditor can not make as Prima facie case that this
8 property is over-encumbered **and** that it is not effective for a
9 reorganization. For the reasons aforementioned, the debtor asks
10 that the Motion be denied and the attorneys fees and costs denied.

11 In the event that the court does not deny this motion, that an
12 order of "Adequate Protection" be entered into by the court,
13 allowing the debtor to make the normal monthly payment and cure the
14 whatever arrears are owed to this creditor over a 12 month time
15 period.

16 Respectfully Submitted this 12th day of May, 2010.

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18 /s/ SEAN P. PATTERSON, ESQ.
19 SEAN P. PATTERSON, Esq.
20 Attorney for the Debtors
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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, Rule 5(b),
I hereby certify that I am an employee of the law firm of **SEAN P. PATTERSON**, 232 Court Street Reno, Nevada 89501; and that on this date, I mailed a true and correct copy of the foregoing document via the United States mail, postage prepaid to:

Thomas McComas
18143 Cherry Leaf Ct.
Reno, Nv. 89508

This document was sent via electronic mail to:

William Van Meter
Chapter 13 Trustee

Wilde & Associates
Attorney for Movant
Bk@wilddelaw.com

DATED: May 18, 2010 .

/s/ SEAN P. PATTERSON, ESQ.
SEAN P. PATTERSON, ESQ.